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ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 2/18/06

## KOBRE & KIM LLP

800 THIRD AVENUE  
NEW YORK, NEW YORK 10022  
TEL 212.488.1200  
FAX 212.488.1220  
WWW.KOBREKIM.COM

# MEMO ENDORSED

February 15, 2006

### BY FAX (PRIOR PERMISSION GRANTED)

The Honorable Kenneth M. Karas  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 920  
New York, New York 10007

**Re: United States v. Alberto William Vilar and Gary Alan Tanaka**  
S1 05 Cr. 621 (KMK)

Dear Judge Karas:

I am writing on behalf of Defendant Gary Alan Tanaka to respectfully request additional time to file the motion to suppress materials seized from the United Kingdom.

Yesterday – more than four months after the search in the United Kingdom took place – the Government produced an unsigned copy of the “information” that supported the British warrant application (hereinafter, the “Information”). The Information is 12 pages long and includes multiple references to British law.

Counsel to Mr. Tanaka has for months requested documents that served as the basis of the search in the United Kingdom.

In light of yesterday’s production, Mr. Tanaka and his counsel require additional time to review and analyze the Information with the aid of British counsel. Mr. Tanaka respectfully proposes the following schedule:<sup>1</sup>

March 9, 2006 – deadline for motion to suppress  
March 20, 2006 – deadline for Government’s response  
March 27, 2006 – deadline for reply

Amazingly, the Government has informed counsel that it opposes *any* request for additional time to file a motion despite its production of a key document two days before

<sup>1</sup> Mr. Tanaka originally expected to file a motion relating to the Government’s failure to comply with its discovery obligations and was scheduled to file the motion by tomorrow, February 16.


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the filing deadline. The Government's position is untenable. As the Government is aware, Mr. Tanaka has had only a single day to review the Information and get comments from U.K. counsel.

Mr. Tanaka respectfully requests that any delay caused by the filing of this motion be charged against the speedy trial clock. An order to the contrary would prejudice Mr. Tanaka's right to a speedy trial. Had the Government produced in a timely fashion all of the documents relating to the validity of its own search in October 2005, Mr. Tanaka would have been in a position to file this motion in November 2005, and the motion could have been fully briefed within the time-exclusion provided by the Court. Mr. Tanaka should not be forced to choose now between his right to a speedy trial and his right to contest the constitutionality of the Government's conduct.

Mr. Tanaka further requests that this letter be made part of the official Court docket.

Respectfully submitted,

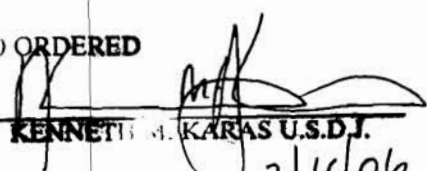


Steven G. Kobre  
212.488.1202

cc: Glenn Colton, Esq.  
Jeffrey C. Hoffman, Esq., counsel for Alberto William Vilar  
Marc Litt, Esq., Assistant United States Attorney

The proposed, revised schedule for briefing on Defendant Tanaka's motion to suppress the fruits of the UK searches is acceptable. The Court will address the speedy trial implications of Defendant's request in a separate order.

SO ORDERED



KENNETH M. KARAS U.S.D.J.

2/16/06